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Filing date: **06/15/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92051465
Party	Defendant EDGE GAMES, INC.
Correspondence Address	EDGE GAMES, INC. 530 SOUTH LAKE AVENUE, #171 PASADENA, CA 91101 UNITED STATES
Submission	Motion to Suspend for Civil Action
Filer's Name	Tim Langdell
Filer's e-mail	uspto@edgegames.com
Signature	/Tim Langdell/
Date	06/15/2010
Attachments	92051465_Motion to Suspend.pdf ( 54 pages )(4009591 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 3,559,342  
For the Trademark THE EDGE  
Issued January 13, 2009

In the Matter of Registration No. 3,381,826  
For the Trademark GAMER'S EDGE  
Issued February 12, 2008

In the Matter of Registration No. 3,105,816  
For the Trademark EDGE  
Issued June 20, 2006

In the Matter of Registration No. 2,251,584  
For the Trademark CUTTING EDGE  
Issued June 8, 1999

In the Matter of Registration No. 2,219,837  
For the Trademark EDGE  
Issued January 26, 1999

<b>EA DIGITAL ILLUSIONS CE AB, a Swedish Corporation; ELECTRONIC ARTS INC., a Delaware corporation,</b>	)	<b>MOTION TO SUSPEND PROCEEDINGS PENDING OUTCOME OF CIVIL ACTION</b>
<b>Petitioners,</b>	)	
<b>v.</b>	)	
<b>EDGE GAMES, INC., a California corporation</b>	)	
<b>Registrant.</b>	)	
_____	)	
	)	
	)	
	)	
	)	
	)	
	)	

**Cancellation No. 92051465**

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

## **MOTION TO SUSPEND PROCEEDINGS**

NOW COMES Respondent and Registrant, EDGE Games Inc. (“EGI”), and moves through this motion that the instant cancellations proceedings be suspended pending the outcome of Federal Court proceedings brought against Petitioner Electronic Arts, Inc. by Registrant.

### **FACTS**

On June 15, 2010 Registrant filed a Federal Court action against Petitioner Electronic Arts, Inc. for trademark infringement relating to Petitioner’s use of the mark “Mirror’s Edge” (Edge Games Inc. v. Electronic Arts Inc., No. CV-10-02614; copy of the Complaint is attached hereto as Exhibit 1). The Federal Court action deals with the same core issues under consideration in the instant cancellation proceedings, namely the infringement of Registrants registered and common law rights in the marks EDGE, THE EDGE, and a family of EDGE formative marks by Petitioners willful use of the EDGE formative mark “Mirror’s Edge” despite repeated decisions by the USPTO that Petitioner may not register said mark because it infringes Registrants family of long-established registered EDGE marks.

### **ARGUMENT**

It is the policy of the Board to suspend proceedings when the parties are involved in a civil action which may be dispositive of or have a bearing on the Board case (*see* Trademark Rule 2.117(a)). Moreover, to the extent that a civil action in a Federal district court involves issues in common with those in a Board proceeding, the district court decision would be binding on the Board, whereas the Board decision is merely advisory

to the district court. *See American Bakeries Co. v. Pan-O-Gold Baking Co.*, 2 USPQ2d 1208 (D.C. Minn. 1986). Further, Board decisions are appealable to the district court. *See* Section 21 of the Trademark Act, and *Goya Foods, Inc. v. Tropicana Products Inc.*, 846 F.2d 848, 6 USPQ2d 1950, at 1953 (2d Cir. 1988).

Consequently, Registrant requests that the instant cancellation proceedings be suspended pending the final disposition of the civil action between the parties.

Date: June 15, 2010

Respectfully submitted,



By: \_\_\_\_\_

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EDGE Games, Inc.  
Registrant in *Pro Se*  
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# **EXHIBIT 1**

ORIGINAL  
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ADR

6 Attorneys for Plaintiff,  
EDGE GAMES, INC.

E-filing

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

13 CV 10-02614

BZ

14 EDGE GAMES, INC., a California corporation,  
15 Plaintiff,  
16 v.  
17  
18 ELECTRONIC ARTS INC. a Delaware  
corporation,  
19 Defendant.

Case No.

**COMPLAINT FOR TRADEMARK  
INFRINGEMENT, FALSE  
DESIGNATION OF ORIGIN, UNFAIR  
COMPETITION, AND UNJUST  
ENRICHMENT**

**JURY TRIAL DEMANDED**

28 COMPLAINT FOR TRADEMARK INFRINGEMENT,  
FALSE DESIGNATION OF ORIGIN, UNFAIR  
COMPETITION AND UNJUST ENRICHMENT

1 Plaintiff Edge Games, Inc. (“Edge Games”), for its Complaint against Defendant Electronic Arts,  
2 Inc. (“EA”), upon knowledge as to its own acts, and upon information and belief as to all other matters,  
3 hereby alleges as follows:

#### 4 **INTRODUCTORY STATEMENT**

5 1. This is an action for trademark infringement and false designation of origin arising under  
6 the Trademark Act of 1946 (Lanham Act), as amended, 15 U.S.C. §§ 1051 *et seq.* This action also  
7 arises under the laws of the State of California for unfair competition and unjust enrichment.  
8

#### 9 **JURISDICTION AND VENUE**

10 2. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 (Lanham Act), 28  
11 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1338(a)-(b) (trademark and unfair competition). This  
12 court has supplemental jurisdiction over the remaining state law claims under 28 U.S.C. § 1367.  
13

14 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c).

#### 15 **INTRADISTRICT ASSIGNMENT**

16 4. Assignment of this action on a district-wide basis is proper under Civil L.R. 3-2(c), in  
17 that this is an Intellectual Property Action.

#### 18 **PARTIES**

19 5. Edge Games is a corporation organized and existing under the laws of the state of  
20 California with its principal place of business at 530 South Lake Avenue, Suite 171, Pasadena,  
21 California 91101.  
22

23 6. Upon information and belief, Defendant EA is a corporation organized and existing under  
24 the laws of the state of Delaware with its principal place of business at 209 Redwood Shores Parkway,  
25 Redwood City, California 94065. Upon further information and belief, EA is qualified to do business  
26 and does substantial business within the State of California and within this judicial district.  
27

1 **BACKGROUND**

2 **EDGE GAMES: A VIDEO GAMING PIONEER WITH VALUABLE TRADEMARKS**

3 7. Edge Games and its predecessors and related entities comprise one of the oldest surviving  
4 video game development and publishing businesses, having been continuously in operation since the  
5 formative years of the industry in the 1980s. Edge Games' predecessor in interest adopted and began  
6 using "EDGE" as a trademark as early as 1984 in connection with the marketing and sale of video game  
7 software.  
8

9 8. At all material times herein, Edge Games and/or its trademark licensees have been and  
10 are engaged in the development and interstate distribution and sale of video game software, video game  
11 accessories, video game publications, video game-related websites, comic books, and other related  
12 goods and services under a family of trademarks based on the designation "EDGE." These marks  
13 include "EDGE"; "THE EDGE"; "GAMER'S EDGE", "EDGE OF EXTINCTION"; "CUTTING  
14 EDGE"; and "EDGEGAMERS" (collectively, the "EDGE family of marks").  
15

16 9. Edge Games' software and other products and services have been and continue to be  
17 advertised and sold throughout the United States, including California, and in foreign markets, under the  
18 EDGE family of marks. By virtue of advertising and sales, together with consumer acceptance and  
19 recognition, these marks identify only the video game-related goods and services of Edge Games and its  
20 licensees, and distinguish them from goods and services sold by others. The EDGE family of marks,  
21 and each mark therein, has thus become and is a valuable asset symbolizing Edge Games, its goodwill,  
22 and the quality of its products.  
23

24 10. Edge Games is the assignee and owner of all right, title and interest under common law in  
25 and to the designation EDGE used in connection with, *inter alia*, video game software and related goods  
26 and services. Edge Games and/or its predecessor first adopted and used this mark at least as early as  
27

1 1984, and have used it continuously since then. This mark is the subject of two applications for federal  
2 registration owned by Edge Games and currently pending in the USPTO, namely Application Serial  
3 Nos. 78/807,479 and 78/981,284. Copies of these application records, as they appear on the USPTO  
4 website, are attached hereto as Exhibit A and Exhibit B, respectively.

5  
6 11. Edge Games is the assignee and owner of all right, title and interest in and to Registration  
7 No. 3,105,816, legally issued by the USPTO on June 20, 2006, for the designation EDGE used in  
8 connection with, *inter alia*, various forms of printed matter, including video game magazines and comic  
9 books. Edge Games and/or its predecessor first adopted and used this mark at least as early as 1985, and  
10 have used it continuously since then. A copy of the registration record, as it appears on the USPTO  
11 website, is attached hereto as Exhibit C and incorporated herein by reference.

12  
13 12. Edge Games is the assignee and owner of all right, title and interest in and to Registration  
14 No. 2,219,837, legally issued by the USPTO on January 26, 1999, for the designation EDGE used in  
15 connection with, *inter alia*, printed matter and publications related to video games. Edge Games and/or  
16 its predecessor first adopted and used this mark at least as early as 1985, and have used it continuously  
17 since then. This mark is incontestable under 15 U.S.C. § 1065. A copy of the registration record, as it  
18 appears on the USPTO website, is attached hereto as Exhibit D and incorporated herein by reference.

19  
20 13. Edge Games is the assignee and owner of all right, title and interest in and to Registration  
21 No. 3,381,826, legally issued by the USPTO on February 12, 2008, for the designation GAMER'S  
22 EDGE used in connection with, *inter alia*, video game software and various video game accessories.  
23 Edge Games and/or its predecessor first adopted and used this mark at least as early as 1986, and have  
24 used it continuously since then. A copy of the registration record, as it appears on the USPTO website,  
25 is attached hereto as Exhibit E and incorporated herein by reference.

1           14.     Edge Games is the assignee and owner of all right, title and interest in and to Registration  
2 No. 3,559,342, legally issued by the USPTO on January 13, 2009, for the designation THE EDGE used  
3 in connection with, *inter alia*, video game software, video game controllers and video game magazines.  
4 Edge Games and/or its predecessor first adopted and used this mark at least as early as 1995, and have  
5 used it continuously since then. A copy of the registration record, as it appears on the USPTO website,  
6 is attached hereto as Exhibit F and incorporated herein by reference.  
7

8           15.     Edge Games is the assignee and owner of all right, title and interest in and to Registration  
9 No. 2,251,584, legally issued by the USPTO on June 8, 1999, for the designation CUTTING EDGE  
10 used in connection with comic books. Edge Games and/or its predecessor first adopted and used this  
11 mark at least as early as 1995, and have used it continuously since then. This mark is incontestable  
12 under 15 U.S.C. § 1065. A copy of the registration record, as it appears on the USPTO website, is  
13 attached hereto as Exhibit G and incorporated herein by reference.  
14

15           16.     Edge Games is the assignee and owner of all right, title and interest in and to Registration  
16 No. 2,727,547, legally issued by the USPTO on June 17, 2003, for the designation EDGE OF  
17 EXTINCTION used in connection with computer game software. Edge Games and/or its predecessor  
18 first adopted and used this mark at least as early as the year 2000, and have used it continuously since  
19 then. This mark is incontestable under 15 U.S.C. § 1065. A copy of the registration record, as it appears  
20 on the USPTO website, is attached hereto as Exhibit H and incorporated herein by reference.  
21

22           17.     Edge Games is the assignee and owner of all right, title and interest in and to Registration  
23 No. 3,585,463, legally issued by the USPTO on September 16, 2008, for the designation  
24 EDGEGAMERS used in connection with entertainment services in the form of an online computer  
25 gaming club. Edge Games and/or its predecessor first adopted and used this mark at least as early as  
26  
27

1 July 1, 2006, and have used it continuously since then. A copy of the registration record, as it appears  
2 on the USPTO website, is attached hereto as Exhibit I and incorporated herein by reference.

### 3 **EA WILLFULLY INFRINGES EDGE GAMES' RIGHTS**

4 18. On or about July 2, 2007, immediately after learning that EA had announced plans to  
5 launch a video game called MIRROR'S EDGE, Edge Games sent EA a cease-and-desist letter informing  
6 EA that its planned game title would infringe Edge Games' EDGE family of marks.  
7

8 19. On information and belief, on July 5, 2007, rather than responding to Edge Games'  
9 cease-and-desist letter, EA instead filed Application Serial No. 77/222,986 in the United States Patent  
10 and Trademark Office ("USPTO") in an attempt to register the mark MIRROR'S EDGE for use in  
11 connection with a variety of goods and services, including video game software and related products.  
12 On or about February 27, 2008, the USPTO refused registration on the expressly-stated grounds that  
13 EA's intended use of MIRROR'S EDGE would cause a likelihood of confusion with several registered  
14 trademarks in Edge Games' EDGE family of marks. A copy of the refusal, as it appears on the USPTO  
15 website, is attached hereto as Exhibit J and incorporated herein by reference.  
16

17 20. From approximately January through September of 2008, Edge Games made further  
18 attempts to communicate with EA to ensure that EA would not launch a game with the infringing title  
19 MIRROR'S EDGE. EA did not respond until early October of 2008, on the eve of MIRROR'S EDGE's  
20 planned launch, when EA finally began to engage in a dialogue and negotiation with Edge Games with  
21 the apparent intent of reaching an amicable resolution.  
22

23 21. Thereafter, on or about November 11, 2008, despite having actual knowledge of Edge  
24 Games' marks, despite the USPTO's refusal to register MIRROR'S EDGE for EA due to likelihood of  
25 confusion with Edge Games' registered marks, and despite its lack of authorization from Edge Games,  
26 EA and/or its affiliates and/or licensees launched EA's MIRROR'S EDGE title and began mass  
27

1 distribution and sales of video game software, comic books and other goods and services bearing the  
2 MIRROR'S EDGE designation. This was a knowing and willful infringement of Edge Games' long-  
3 established trademark rights, entitling Edge Games to an enhanced damages award.

4 22. Even after the launch of MIRROR'S EDGE, Edge Games and/or its representatives  
5 continued negotiating with EA until approximately June 2009.

6 23. Edge Games is informed and believes that on or about September 8, 2009, EA sent a  
7 letter to the USPTO formally abandoning its application to register MIRROR'S EDGE. Nonetheless,  
8 Edge Games is informed and believes that EA continued selling the MIRROR'S EDGE game and  
9 related products and services, and continued making plans to introduce additional MIRROR'S EDGE  
10 releases.  
11

12 24. On information and belief, by early 2009 EA had sold over one million units of its  
13 MIRROR'S EDGE game software for at least the Xbox 360, Playstation 3 and PC platforms, with  
14 substantial additional sales since that time. In addition, Edge Games is informed and believes that EA  
15 has marketed and sold, and/or licensed third parties to market and sell, other infringing MIRROR'S  
16 EDGE-branded products and services, including but not limited to a comic book adaptation of the  
17 MIRROR'S EDGE game, and has published infringing video game-related websites that use the  
18 MIRROR'S EDGE designation.  
19

20 25. Most recently, in or about March 2010, Edge Games sent another cease-and-desist letter  
21 to EA warning it against anticipated launches of the MIRROR'S EDGE game for additional platforms  
22 such as iPad and iPhone. EA has not responded, but has since launched MIRROR'S EDGE for the iPad.  
23

24 26. On information and belief, EA now plans to launch MIRROR'S EDGE 2 as a sequel to  
25 the original MIRROR'S EDGE game, and also plans to launch a MIRROR'S EDGE title for the iPhone,  
26 thus expanding its willful infringement of Edge Games' long-standing trademark rights.  
27

**FIRST CLAIM**  
**INFRINGEMENT OF FEDERALLY REGISTERED TRADEMARKS**  
(15 U.S.C. § 1114)

27. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 26 as if fully set forth herein.

28. Edge Games is the owner of a family of registered trademarks, as identified above, incorporating the term EDGE for, *inter alia*, video games, video game-related websites, comic books, and other related goods and services.

29. Without Edge Games' consent, EA and/or its licensees have been and are now selling, offering for sale, distributing and advertising in interstate commerce video games, video game-related websites, comic books, and other related products and services bearing the designation MIRROR'S EDGE, so as to infringe upon each or any of Edge Games' above-identified registered trademarks.

30. EA's MIRROR'S EDGE designation bears sufficient overall similarity to each or any of the registered trademarks in Edge Games' EDGE family of marks, and/or is used by EA in connection with goods or services that are sufficiently competitive with or related to Edge Games' goods or services, so as to cause a likelihood of confusion, mistake or deception. Specifically, EA's use of the designation MIRROR'S EDGE is a colorable imitation of each and any of the registered marks in Edge Games' EDGE family of marks, and is likely to cause confusion, mistake, or deception among consumers as to the source of origin, sponsorship, or approval of products designated MIRROR'S EDGE, in that purchasers or others are likely to believe Edge Games' and its licensees' legitimate products bearing any of the trademarks in Edge Games' EDGE family of registered trademarks are connected with EA and/or its MIRROR'S EDGE products, and/or in that purchasers or others are likely to believe EA's MIRROR'S EDGE products are Edge Games' products or the products of a company legitimately connected with, approved by, or related to Edge Games.



1 38. As a direct and proximate result of EA's infringement, Edge Games has suffered  
2 substantial damage in an amount to be proven at trial.

3 39. EA's infringement of Edge Games' trademarks as alleged herein was knowing and  
4 willful.

5 40. EA's actions as alleged herein have caused and will cause Edge Games irreparable harm  
6 for which money damages and other remedies at law are inadequate. Unless EA is enjoined by this  
7 Court, it will continue and/or expand the wrongful activities alleged herein and otherwise continue to  
8 cause great and irreparable damage and injury to Edge Games.  
9

10 **THIRD CLAIM**  
11 **COMMON LAW TRADEMARK INFRINGEMENT**  
12 (California Law)

13 41. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 40 as if fully  
14 set forth herein.

15 42. As detailed above, Edge Games has common law rights in California and throughout the  
16 United States in the various marks in its EDGE family of marks.

17 43. Each mark in Edge Games' EDGE family of marks has acquired distinctiveness.

18 44. EA's MIRROR'S EDGE designation infringes each and any mark in Edge Games'  
19 EDGE family of marks in that a likelihood of confusion exists between EA's MIRROR'S EDGE  
20 designation and each and any of the various marks in Edge Games' EDGE family of marks.  
21

22 45. EA's MIRROR'S EDGE products and services compete in the marketplace with Edge  
23 Games' products and services sold under the EDGE family of marks.

24 46. As a direct and proximate result of EA's infringement, Edge Games has suffered  
25 substantial damage in an amount to be proven at trial.  
26  
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**FIFTH CLAIM**  
**COMMON LAW UNFAIR COMPETITION**  
(California Law)

53. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 52 as if fully set forth herein.

54. EA's MIRROR'S EDGE products and services compete in the marketplace with Edge Games' products and services sold under the EDGE family of marks.

55. EA's use, in competition with Edge Games, of a colorable imitation of each and any of the trademarks in Edge Games' EDGE family of marks constitutes an infringement that is actionable under the common law of unfair competition.

56. As a direct and proximate result of EA's infringement, Edge Games has suffered substantial damage in an amount to be proven at trial, and is entitled to monetary and equitable remedies.

57. EA's infringement of Edge Games' trademarks as alleged herein was knowing and willful.

**SIXTH CLAIM**  
**UNJUST ENRICHMENT**  
(California Law)

58. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 57 as if fully set forth herein.

59. As a direct and proximate result of the aforementioned acts and practices constituting infringement of Edge Games' EDGE family of marks, EA has profited at Edge Games' expense, and to the detriment of the value of Edge Games' EDGE family of marks.



1 8. Adjudge that Edge Games be awarded punitive damages in an amount appropriate to  
2 punish EA and deter others from engaging in similar conduct;

3 9. Adjudge that EA and its agents, employees, attorneys, successors, assigns, affiliates, and  
4 joint venturers, and any person(s) acting in concert or participation therewith, be restrained and  
5 enjoined during the pendency of this action and permanently thereafter from manufacturing,  
6 producing, sourcing, importing, selling, offering for sale, distributing, advertising, or promoting  
7 any goods bearing the designation MIRROR'S EDGE, including but not limited to video games,  
8 video game software, and printed materials so designated, and be restrained and enjoined from  
9 otherwise infringing Edge Games' trademarks; and

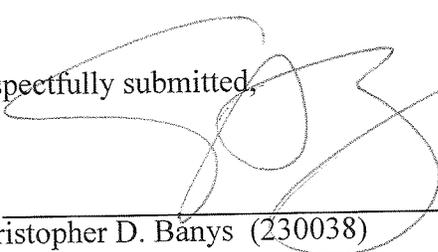
10 10. Order all such further relief for Edge Games as this Court deems just and proper.

11 **DEMAND FOR A JURY TRIAL**

12 Edge Games demands a trial by jury of all issues triable by a jury.

13  
14  
15  
16 Dated: June 15, 2010

Respectfully submitted,

17  
18 By:   
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Daniel M. Shafer (244839)  
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19  
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24 Attorneys for Plaintiff,  
EDGE GAMES, INC.

# **EXHIBIT A**



**United States Patent and Trademark Office**

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# EDGE

<b>Word Mark</b>	EDGE
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Computers, plug-in boards, peripheral devices, flash cards, video game accessories, video game peripherals. FIRST USE: 19840601. FIRST USE IN COMMERCE: 19840601
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	78807479
<b>Filing Date</b>	February 5, 2006
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Owner</b>	(APPLICANT) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Prior Registrations</b>	1853705;2219837;7502940
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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# **EXHIBIT B**



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# EDGE

**Word Mark** EDGE

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Computer game software, computer game programs, video game software, video game programs, computer game software that may be downloaded from a global computer network, video game software that may be downloaded from a global computer network, electronic game programs designed for use with mobile entertainment devices. FIRST USE: 19840601. FIRST USE IN COMMERCE: 19840601

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 78981284

**Filing Date** February 5, 2006

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** January 12, 2010

**Owner** (APPLICANT) EDGE GAMES, INC. CORPORATION CALIFORNIA 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101

**Assignment Recorded** ASSIGNMENT RECORDED

**Prior Registrations** 2219837;3105816;3559342;AND OTHERS

**Type of Mark** TRADEMARK

Register PRINCIPAL  
Live/Dead Indicator LIVE

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# **EXHIBIT C**



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**Typed Drawing**

**Word Mark** EDGE  
**Goods and Services** IC 016. US 002 005 022 023 029 037 038 050. G & S: printed matter, namely, comic books, comic book reference guide books, books featuring stories in illustrated forms, graphic novels, comic strips, picture postcards, comic postcards, printed postcards, novelty stickers, decals, bumper stickers, note cards, note paper, stationery folders, computer magazines, video game magazines, magazines and posters about interactive entertainment; writing instruments, namely pencils, ball point pens, ink pens. FIRST USE: 19850106. FIRST USE IN COMMERCE: 19850106  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 78208607  
**Filing Date** January 29, 2003  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** March 28, 2006  
**Registration Number** 3105816  
**Registration Date** June 20, 2006  
**Owner** (REGISTRANT) The EDGE Interactive Media, Inc. CORPORATION CALIFORNIA 530 South Lake Avenue #171 Pasadena CALIFORNIA 91101  
 (LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Prior Registrations** 2219837  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL

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# **EXHIBIT D**



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**Typed Drawing**

**Word Mark** EDGE

**Goods and Services** IC 016. US 002 005 022 023 029 037 038 050. G & S: printed matter and publications, namely, magazines, newspapers, journals, and columns and sections within such magazines, newspapers, and journals, and pamphlets and booklets, all in the fields of business, entertainment, and education, relating to toys, games, board games, television, interactive music, and video; stationery; posters; exterior packaging for software, namely, cardboard cartons; printed paperboard inserts for plastic packaging of software; paper bags; plastic bubble packs for packaging; envelopes; and paper pouches for packaging. FIRST USE: 19840500. FIRST USE IN COMMERCE: 19840500

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 74556730

**Filing Date** August 3, 1994

**Current Filing Basis** 1A;44E

**Original Filing Basis** 1A;44D

**Published for Opposition** June 9, 1998

**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED

**Registration Number** 2219837

**Registration Date** January 26, 1999

**Owner** (REGISTRANT) Edge Interactive Media, Inc., The CORPORATION CALIFORNIA 530 SOUTH LAKE AVENUE SUITE 171 Pasadena CALIFORNIA 91101

(LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of** Tim Langdell

**Record**

**Priority Date** February 11, 1994  
**Prior Registrations** 1853705  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20091103.  
**Renewal** 1ST RENEWAL 20091103  
**Live/Dead Indicator** LIVE

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# **EXHIBIT E**



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# GAMER'S EDGE

**Word Mark  
Goods and  
Services**

GAMER'S EDGE

IC 009. US 021 023 026 036 038. G & S: Computers; computer hardware; computer peripherals; computer games software; plug-on computer interface boards; computer accessories, namely, keyboards, mice, player-operated electronic game controllers for computers and electronic video game machines, computer memories, headphones, augmented reality headsets for use with computers and video game machines, virtual reality headsets for use with computers and video game machines, storage disc cases, video display and capture cards, sound cards, audio speakers, web-cameras, carrying cases and bags, all for carrying portable computers or computer accessories; video game software; video game consoles, namely, video game machines for use with televisions and video monitors; video game accessories, namely, joysticks made for video games, video game interactive control floor pads and mats, and video game interactive remote control units; video game peripherals, namely, external hard drives for computers and video game machines and other storage devices in the nature of plug-in memory devices that attach to the USB port which are commonly known as "flash drives" or "thumb drives" and video adapters in the nature of adapters which convert the video output of the computer or video game machine to the video input of a monitor or television; set top boxes, cable modems, dsl modems. FIRST USE: 19860601. FIRST USE IN COMMERCE: 19860601

**Standard  
Characters  
Claimed**

**Mark Drawing  
Code** (4) STANDARD CHARACTER MARK

**Trademark  
Search Facility  
Classification  
Code** NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks

**Serial Number** 78807446

**Filing Date** February 5, 2006

**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** November 27, 2007  
**Registration Number** 3381826  
**Registration Date** February 12, 2008  
**Owner** (REGISTRANT) The EDGE Interactive Media Inc CORPORATION CALIFORNIA 530 South Lake Avenue Suite 171 Pasadena CALIFORNIA 91101  
  
(LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101  
  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Prior Registrations** 2219837;2251584;3105816  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GAMER'S" APART FROM THE MARK AS SHOWN  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# **EXHIBIT F**



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**Typed Drawing**

**Word Mark** THE EDGE  
**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Video game peripherals, namely, video game controllers; computers; computer accessories, namely, keyboards, mice; game controllers for computer games; memory cards; headphones; augmented reality headsets for use with computers; virtual reality headsets for use with computers; storage disc cases, namely, compact disc cases and DVD cases; video display and capture cards; audio cards; audio speakers; web-cameras; backpacks, carrying cases and bags all designed for carrying portable computers, computer accessories, and computer peripherals; video game machines for use with televisions and accessories therefore, namely, video game controllers; video game software; computer game software, computer game software for use in location based entertainment centers. FIRST USE: 19840604. FIRST USE IN COMMERCE: 19840604

IC 016. US 002 005 022 023 029 037 038 050. G & S: Magazines, namely, magazines in the fields of business, entertainment, popular culture and education; Magazines, namely, in the fields of computer games, video games, board games, hand-held games, interactive media, television, music, video, movie, clothing, fashion, leisure activities and lifestyle; computer and video game magazines, comic books, posters, note paper, note cards, bumper stickers, stickers, pencils, ball point pens, ink pens, stationery; folders. FIRST USE: 19930414. FIRST USE IN COMMERCE: 19930414

IC 021. US 002 013 023 029 030 033 040 050. G & S: Mugs and cups. FIRST USE: 19950812. FIRST USE IN COMMERCE: 19950812

IC 025. US 022 039. G & S: T-shirts, sweatshirts, jackets. FIRST USE: 19950812. FIRST USE IN COMMERCE: 19950812

IC 028. US 022 023 038 050. G & S: Toys and playthings, namely, battery operated action toys, bendable toys, collectable toy figures, electronic action toys, electronically operated toy vehicles, fantasy character toys, mechanical action toys, modeled plastic toy figurines, model toy figures, plastic character toys, plush toys, positionable toy figures, toy action figures, toy boxes, toy figures; hand held units for playing games and accessories therefore, namely, carrying cases designed for hand-held units for playing electronic games; stand alone video game machines and accessories therefore, namely, carrying cases and covers designed for stand-alone video game machines. FIRST USE: 19950812. FIRST USE IN COMMERCE: 19950812

**Mark Drawing** (1) TYPED DRAWING

**Code**

**Serial Number** 75077113

**Filing Date** March 22, 1996

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** June 3, 2008

**Registration Number** 3559342

**Registration Date** January 13, 2009

**Owner** (REGISTRANT) EDGE Games, Inc. CORPORATION NOT PROVIDED 530 SOUTH LAKE AVENUE SUITE 171 PASADENA CALIFORNIA 91101

**Assignment Recorded** ASSIGNMENT RECORDED

**Prior Registrations** 2219837

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# **EXHIBIT G**



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**Typed Drawing**

<b>Word Mark</b>	CUTTING EDGE
<b>Goods and Services</b>	IC 016. US 002 005 022 023 029 037 038 050. G & S: publications, namely comic books and comic magazines and stories in illustrated form. FIRST USE: 19951201. FIRST USE IN COMMERCE: 19951201
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	74662343
<b>Filing Date</b>	April 17, 1995
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	November 28, 1995
<b>Registration Number</b>	<b>2251584</b>
<b>Registration Date</b>	June 8, 1999
<b>Owner</b>	(REGISTRANT) Marvel Entertainment Group, Inc. CORPORATION DELAWARE 387 Park Avenue South New York NEW YORK 10016  (LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	TIM LANGDELL
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20091116.
<b>Renewal</b>	1ST RENEWAL 20091116
<b>Live/Dead</b>	LIVE

Indicator

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# **EXHIBIT H**



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**Typed Drawing**

**Word Mark** EDGE OF EXTINCTION  
**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Computer game software. FIRST USE: 20000310. FIRST USE IN COMMERCE: 20000310  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 75951042  
**Filing Date** March 3, 2000  
**Current Filing Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** March 19, 2002  
**Registration Number** 2727547  
**Registration Date** June 17, 2003  
**Owner** (REGISTRANT) Cybernet Systems Corporation CORPORATION DELAWARE 727 Airport Blvd. Ann Arbor MICHIGAN 48108  
  
(LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION CALIFORNIA 530 SOUTH LAKE AVENUE, #171 PASADENA CALIFORNIA 91101  
  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** John G. Posa  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR).  
**Live/Dead Indicator** LIVE

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# **EXHIBIT I**



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# EDGE GAMERS

<b>Word Mark</b>	EDGE GAMERS
<b>Goods and Services</b>	IC 041. US 100 101 107. G & S: Providing organizations for online game administrators, namely, entertainment services in the nature of an online computer gaming club; providing public forums for online game administrators, namely, entertainment services in the nature of an online computer gaming club. FIRST USE: 20060701. FIRST USE IN COMMERCE: 20060701
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	77352656
<b>Filing Date</b>	December 14, 2007
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	September 16, 2008
<b>Change In Registration</b>	CHANGE IN REGISTRATION HAS OCCURRED
<b>Registration Number</b>	<b>3585463</b>
<b>Registration Date</b>	March 10, 2009
<b>Owner</b>	(REGISTRANT) EDGE GAMES, INC. CORPORATION CALIFORNIA 530 SOUTH LAKE AVE, STE 171 PASADENA CALIFORNIA 91101

Assignment Recorded ASSIGNMENT RECORDED  
Attorney of Record DANIEL M CISLO  
Type of Mark SERVICE MARK  
Register PRINCIPAL  
Live/Dead Indicator LIVE

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# **EXHIBIT J**

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**To:** Electronic Arts Inc. (sgarfield@ea.com)  
**Subject:** TRADEMARK APPLICATION NO. 77222986 - MIRROR'S EDGE - N/A  
**Sent:** 2/27/2008 6:34:46 PM  
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**UNITED STATES PATENT AND TRADEMARK OFFICE****SERIAL NO:** 77/222986**MARK:** MIRROR'S EDGE**\*77222986\*****CORRESPONDENT ADDRESS:**JAKE SCHATZ  
ELECTRONIC ARTS INC.  
209 REDWOOD SHORES PKWY**RESPOND TO THIS ACTION:**<http://www.uspto.gov/teas/eTEASpageD.htm>

REDWOOD CITY, CA 94065-1175

**GENERAL TRADEMARK INFORMATION:**  
<http://www.uspto.gov/main/trademarks.htm>**APPLICANT:** Electronic Arts Inc.**CORRESPONDENT'S  
REFERENCE/DOCKET NO:**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**  
sgarfield@ea.com

### OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

**ISSUE/MAILING DATE: 2/27/2008**

The assigned examining attorney has reviewed the referenced application and determined the following.

This application was published for Opposition on January 15, 2008. It has been determined, by the Commissioner for Trademarks, that a clear error has been made in allowing this mark to be published. Jurisdiction has been restored to the Examining Attorney to take appropriate action in accordance with the evidence contained herein. TMEP Section 1715.03.

#### **Section 2(d) - Likelihood of Confusion Refusal**

Registration of the proposed mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 2219837, 2251584, 3105816, and 3381826. Trademark Act Section 2(d), 15 U.S.C. §1052(d); TMEP §§1207.01 *et seq.* See the enclosed registrations.

Taking into account the relevant *Du Pont* factors, a likelihood of confusion determination in this case involves a two-part analysis. First, the marks are compared for similarities in appearance, sound, connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the goods or services are compared to determine whether they are similar or related or whether the activities surrounding their marketing are such that confusion as to origin is likely. *In re National Novice Hockey League, Inc.*, 222 USPQ 638 (TTAB 1984); *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re Int'l Tel. and Tel. Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Prods. Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); TMEP §§1207.01 *et seq.*

The applicant's mark is MIRROR'S EDGE for the following:

Class 009: Pre-recorded audio tapes, video tapes, audio cassettes, video cassettes, CD-ROMs, DVDs, compact discs, and video discs, featuring entertainment related to films, games and music; computer game software; computer game software and manuals sold as a unit; computer video game software; computer video game software and manuals sold as a unit; interactive video game programs; interactive computer game programs, downloadable computer game software, downloadable

interactive entertainment software for playing computer games, downloadable interactive entertainment software for playing video games; downloadable computer game software via wireless devices; computer game software for mobile phones; Downloadable ring tones, graphics and digital music files via the internet and wireless devices

Class 016: Paper goods and printed matter, namely, address books; comic books; notebooks; children's books; books containing screenplays or scripts of movies, shows or games; diaries; paper doorknob hangers; invitation cards; personal organizers; paper table cloths; trading cards; wallet cards, posters; book plates; book marks; checkbook holders and covers; non-electronic personal planners and organizers; artist's materials, namely, pencils, pens; paper gift wrap; paper and fabric gift tags; gift bags; greeting cards, paper party decorations; paper napkins; paper party bags; paper party hats; postcards; stickers; sticker albums; calendars; cardboard figures, namely, temporary tattoos; school and office supplies, namely, erasers, pencils, pens, markers, pencil cases; pencil sharpeners; sheet music; novels; paper cake decorations; bank checks; series of fiction books; juvenile books; reference books in the field of science fiction; personalized books in the field of science, science fiction and computer games; comic magazines; books for role-playing, namely, role playing game equipment in the nature of game book manuals; art books in the field of science, science fiction and computer games; coffee table books in the field of science fiction and computer games; books in the field of science, science fiction and computer games; stationery type portfolios, calendars, children's activity books; magazines in the field of science, science fiction and computer games

Class 028: toys and sporting goods including games and playthings, namely, action figures and accessories therefore, plush toys, balloons, bathtub toys, ride-on toys, equipment sold as a unit for playing card games, toy vehicles, dolls, flying discs; electronic hand-held game unit; game equipment sold as a unit for playing a board game, a card game, a manipulative game, a parlor game and an action type target game; stand alone video output games machines, jigsaw and manipulative puzzles, paper face masks; playing cards; board games; toy candy dispensers and holders; card games; toy vehicles; dolls; hand held units for playing electronic games; hi bounce balls for games; costume masks; paper face masks; toy model vehicles and related accessories therefor sold as units; toy pedal cars; playsets for action figures; playsets for toy vehicles; skateboards; three-dimensional puzzles; toy banks; toy model hobby craft kits; toy model rockets and accessories therefor sold as unit; toy weapons; jigsaw puzzles; plush toys; roller skates; in-line skates; Christmas tree ornaments; amusement park rides; toy vehicles made of non-precious metals; beach toys, namely, inflatable toys; water squirting toys; construction toys; toy building blocks and connecting links for the same; athletic protective pads and padding for skateboarding, in-line skating, and roller skating; toy coin banks; pinball machines; inflatable swimming pools; inflatable pool toys; toy snow globes; toy foam weapons; equipment sold as a unit for playing arcade type electronic video games; kites

Class 038: providing an online bulletin board for transmission of messages among computer users concerning the field of entertainment relating to motion picture films and science fiction

Class 041: Entertainment services, namely, providing news, information and scheduling of programming about interactive computer game software, interactive video game software and interactive computer games and interactive video games, via electronic, wireless and computer networks; providing news, information and scheduling of programming in the field of entertainment relating to motion picture films and science fiction over an electronic network; entertainment services, namely, providing online computer and video games accessed and played via electronic, wireless and computer networks; entertainment services, namely, providing computer and video games accessed and played via mobile and cellular phones and other wireless devices; Entertainment services, namely, a continuing computer game and science fiction show broadcast over television, satellite, audio, and

video media; entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia materials in the fields of film and music; entertainment services in the field of film and television, namely, production of films, videos, animation, and computer generated images; film distribution; entertainment in the nature of arranging and conducting competitions in the field of entertainment trivia; fan club services; production and distribution of motion pictures; providing news and information in the field of entertainment relating to motion picture films via global computer networks

The registrant's marks are for the following:

2219837 EDGE for printed matter and publications, namely, magazines, newspapers, journals, and columns and sections within such magazines, newspapers, and journals, and pamphlets and booklets, all in the fields of business, entertainment, and education, relating to toys, games, computers, computer software, computer games, video games, board games, hand-held games, interactive media, television, interactive music, and video; stationery; posters; exterior packaging for software, namely, cardboard cartons; printed paperboard inserts for plastic packaging of software; paper bags; plastic bubble packs for packaging; envelopes; and paper pouches for packaging

2251584 CUTTING EDGE for publications, namely comic books and comic magazines and stories in illustrated form

3105816 EDGE for printed matter, namely, comic books, comic book reference guide books, books featuring stories in illustrated forms, graphic novels, comic strips, picture postcards, comic postcards, printed postcards, novelty stickers, decals, bumper stickers, note cards, note paper, stationery folders, computer magazines, video game magazines, magazines and posters about interactive entertainment; writing instruments, namely pencils, ball point pens, ink pens

3381826 EDGE for Computers; computer hardware; computer peripherals; computer games software; plug-on computer interface boards; computer accessories, namely, keyboards, mice, player-operated electronic game controllers for computers and electronic video game machines, computer memories, headphones, augmented reality headsets for use with computers and video game machines, virtual reality headsets for use with computers and video game machines, storage disc cases, video display and capture cards, sound cards, audio speakers, web-cameras, carrying cases and bags, all for carrying portable computers or computer accessories; video game software; video game consoles, namely, video game machines for use with televisions and video monitors; video game accessories, namely, joysticks made for video games, video game interactive control floor pads and mats, and video game interactive remote control units; video game peripherals, namely, external hard drives for computers and video game machines and other storage devices in the nature of plug-in memory devices that attach to the USB port which are commonly known as "flash drives" or "thumb drives" and video adapters in the nature of adapters which convert the video output of the computer or video game machine to the video input of a monitor or television; set top boxes, cable modems, dsl modems.

The registered marks have a common owner.

### **Comparison of the Marks**

The marks are compared for similarities in sound, appearance, meaning or connotation. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1536 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *In re Mack*,

197 USPQ 755 (TTAB 1977); TMEP §1207.01(b).

The applicant's mark, MIRROR'S EDGE, is similar to the registered mark as they all contain the word EDGE or use EDGE as the full mark. While applicant's mark adds the term MIRROR, the mere addition of a term to a registered mark does not obviate the similarity between the marks nor does it overcome a likelihood of confusion under Section 2(d). *In re Chatam International Inc.*, 380 F.3d 1340, 71 USPQ2d 1944 (Fed. Cir. 2004) ("GASPAR'S ALE and "JOSE GASPAR GOLD"); *Coca-Cola Bottling Co. v. Joseph E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (C.C.P.A. 1975) ("BENGAL" and "BENGAL LANCER"); *Lilly Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (C.C.P.A. 1967) ("THE LILLY" and "LILLI ANN"); *In re El Torito Rests. Inc.*, 9 USPQ2d 2002 (TTAB 1988) ("MACHO" and "MACHO COMBOS"); *In re United States Shoe Corp.*, 229 USPQ 707 (TTAB 1985) ("CAREER IMAGE" and "CREST CAREER IMAGES"); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) ("CONFIRM" and "CONFIRMCELLS"); *In re Riddle*, 225 USPQ 630 (TTAB 1985) ("ACCUTUNE" and "RICHARD PETTY'S ACCU TUNE"); *In re Cosvetic Laboratories, Inc.*, 202 USPQ 842 (TTAB 1979) ("HEAD START" and "HEAD START COSVETIC"); TMEP §1207.01(b)(iii).

### Comparison of the Goods and Services

The goods and services of the parties need not be identical or directly competitive to find a likelihood of confusion. Instead, they need only be related in some manner, or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source. *On-line Careline Inc. v. America Online Inc.*, 229 F.3d 1080, 56 USPQ2d 1471 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Prods. Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re Int'l Tel. & Tel. Corp.*, 197 USPQ 910 (TTAB 1978); TMEP §1207.01(a)(i).

The applicant's goods and services are closely related to the registrant's goods and services as they all contain goods and services related to comic books, computer game programs, and other highly related goods likely to travel through the same channels of trade to the same classes of purchasers. Accordingly, because confusion as to source is likely, registration is refused under Trademark Action Section 2(d) based on a likelihood of confusion.

Please see attached Internet website evidence showing goods similar to the parties sold through the similar channels of trade.

Since the identification of the applicant's services is very broad, it is presumed that the application encompasses all services of the type described, including those in the registrant's more specific identification, that they move in all normal channels of trade and that they are available to all potential customers. TMEP §1207.01(a)(iii).

Any doubt regarding a likelihood of confusion is resolved in favor of the prior registrant. *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001, 1004 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§1207.01(d)(i).

Although the trademark examining attorney has refused registration, applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

**Search Results- Two or More Earlier-Filed Pending Applications**

Information regarding pending Application Serial Nos. 75077113 and 78807479 are enclosed. The filing dates of the referenced applications precede applicant's filing date. There may be a likelihood of confusion under Trademark Act Section 2(d) between applicant's mark and the referenced marks. If one or more of the referenced applications registers, registration may be refused in this case under Section 2(d). 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon entry of a response to this Office action, action on this case may be suspended pending final disposition of the earlier-filed applications.

If applicant believes that there is no potential conflict between this application and the earlier-filed applications, then applicant may present arguments relevant to the issue in a response to this Office action. The election not to submit arguments at this time in no way limits applicant's right to address this issue at a later point.

/Kapil K. Bhanot/  
Trademark Examining Attorney  
Law Office 108  
Phone - (571) 270-1516  
Fax No. (571) 270-2516

**RESPOND TO THIS ACTION:** If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office action should be filed using the form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Registrant's Motion to Suspend in these cancellation proceedings No. 92051465 was placed in United States Mail, postage prepaid, addressed to the correspondent of record for Petitioners, as follows:

John W. Crittenden  
Cooley Godward Kronish LLP  
101 California Street, Fifth Floor  
San Francisco, CA 94111  
UNITED STATES

This 15<sup>th</sup> day of June, 2010



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Dr. Tim Langdell  
CEO, For Registrant in *pro se*